IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No.620 of 1999
Date of decision: December 21, 2006.

Ramesh Kumar Sharma & Ors.

...**Petitioner(s)**

v.

Smt. S.K. Sandhu & Ors.

...**Respondent(s)**

Present: Shri R.C. Chatrath, Advocate and
Ms. Alka Chatrath, Advocate, for the petitioners.

Shri G.S. Cheema, Sr. Dy. Advocate General, Punjab,
for the respondents.

Surya Kant, J. (Oral)

This bunch of contempt petitions, bearing No.620, 623, 659, 657, 656, 660, 637, 633, 629, 329, 632, 639, 645, 646, 653, 739, 1089, 1090, 1097, 1120, 1123, 1124 and 257 of 1999, have arisen out of the orders passed in cases wherein similar question of law and facts were involved, hence, are being disposed of by a common order. For the sake of brevity, the facts are taken from COCP No.620 of 1999.

The petitioners are teachers working in govt. aided privately managed schools. The petitioners approached this court by way of CWP No.1442 of 1994 which was allowed on 19.8.1994 in terms of decision dated 24.3.1994 rendered by this court in CWP No.876 of 1988 (**Gulshan Lal Aul and others v. State of Punjab and others**).

In CWP No.876 of 1988 decided on 24.3.1994, a Division Bench of this Court had directed the respondents to determine the benefits

available to the writ petitioners in the light of the judgments rendered by the Hon'ble Supreme Court in the cases of:- (i) **Haryana State Adhyapak Sangh & Ors. v. State of Haryana**, AIR 1988 SC 1663; and (ii) **Haryana State Adhyapak Sangh v. State of Haryana**, AIR 1990 SC 968. The Division Bench further directed that the afore-mentioned benefits shall include "the grant of 2/3 increments as has been granted to their counter-parts in government schools".

The State of Punjab had preferred SLP in the Hon'ble Supreme Court against the Division Bench judgment of this court dated 24.3.1994 rendered in CWP No.876 of 1988 and other bunch of writ petitions which in turn were relied upon by this court while allowing the writ petition filed by the petitioners.

The above stated SLPs were decided by the Hon'ble Supreme Court vide judgment dated 8.7.1996 rendered in Civil Appeal No.9103-9105 of 1996 as well as Civil Appeal No.9106-9115 of 1996 in **State of Punjab v. Om Parkash Kaushal & Ors** (Annexure R1).

The State of Punjab also preferred Special Leave Petition in the Hon'ble Supreme Court against the above stated judgment rendered in the petitioners' case which was disposed of on 18.8.1998 vide Civil Appeals No.4029-4043 of 1998 in terms of the judgment in the case of **State of Punjab v. Om Parkash Kaushal & Ors.**, 1996 SCC 325 and further held that while the respondents (i.e. the petitioners) are entitled to a higher pay scale as is available to the teachers in government schools on the basis of higher qualifications but they can claim benefit of any increments in the pay scales on the basis of the higher qualifications, which benefit had been granted to the teachers in government schools.

In **Om Parkash Kaushal**'s case (supra), the Hon'ble Supreme Court held that this court fell into patent error in directing the State of Punjab to grant the benefits under 1960 Instructions to the writ petitioners. The appeal was accordingly allowed and the Division Bench judgment dated 24.3.1994 in CWP No.876 of 1988 was set aside.

The petitioners, however, have filed these contempt petitions, *inter-alia*, alleging that the orders dated 18.8.1994 passed by this court in their CWP No.1442 of 1994, as also the order dated 18.8.1998 passed by the Hon'ble Supreme Court, are not being implemented by the respondents.

In response to the show cause notice, the respondents have come up with the plea that as far as the parity in pay scales upheld by the Hon'ble Supreme Court in **Om Parkash Kaushal**'s case (supra) is concerned, the same had already been granted to the petitioners. However, additional increments on the basis of higher qualifications are inadmissible as their claim to this effect was expressly turned down by the Apex Court. It is also averred that the 1957 Instructions relied upon by the petitioners have since been withdrawn.

In the backdrop of these seriously disputed questions of fact, it needs to be noticed that in somewhat similar circumstances, COCP No.461 of 2004 was filed in this court. Relying upon the *ratio decidendi* of the judgment of the Hon'ble Supreme Court in the case of **M/s Shenoy and Co., Bangalore and others v. Commercial Tax Officer, Circle II, Bangalore and others**, AIR 1985 SC 621, this Court, vide order dated 17.3.2005, dismissed the above stated contempt petition. The afore-mentioned order was further relied upon by this Court when execution applications filed by the persons like the petitioners herein, were dismissed vide order dated

7.2.2006 passed in Execution Application No.18396 of 2004.

Similarly, relying upon the order passed in COCP No.416 of 2004, COCP No.159 of 1999 was also dismissed by this court on 14.9.2006.

Learned Counsel for the parties have been heard at length.

Though, Learned Counsel for the petitioners has attempted to make out a case as if the respondents have failed to grant the relief to which the petitioners were held entitled by the Hon'ble Supreme Court in **Om Parkash Kaushal**'s case (supra), however, there is no specific plea/pleadings in the contempt petitions in this regard, rather the main grievance pertains to non-implementation of the order dated 19.8.1994 passed by this Court in CWP No.124 of 1994. In my view, the afore-mentioned order cannot be implemented for the reason that the judgment relied upon by this court while allowing the above stated writ petition, has already been set aside by the Hon'ble Supreme Court vide its judgment dated 8.7.1996 (Annexure R1).

Consequently, I do not deem it appropriate to continue with these contempt proceedings which are accordingly dropped, however, with liberty to the petitioners to individually represent and make out their case for the grant of relief, if any, on the basis of judgment of the Hon'ble Supreme Court in **Om Parkash Kaushal**'s case (supra). If any such representation is made by them individually, the authorities shall be obligated to consider the same in the light of the said judgment and dispose of the same in accordance with law.

Disposed of.

Rule discharged.

December 21, 2006. [**Surya Kant**]
kadyan **Judge**